

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION

LATOSHA R. DUKES,

Plaintiff

v.

C-1-11-02

CONWAY DEPARTMENT STORES,

Defendant

ORDER

This matter is before the Court upon the Report and Recommendation of the United States Magistrate Judge (doc. no. 4) to which neither party has objected.

Upon a *de novo* review of the record, the Court finds that the Judge has accurately set forth the applicable law and has properly applied it to the particular facts of this case. Accordingly, in the absence of any objection by plaintiff, this Court accepts the Report as uncontroverted.

The Report and Recommendation of the United States Magistrate Judge (doc. no. 4) is hereby ADOPTED AND INCORPORATED HEREIN BY REFERENCE. Plaintiff's Complaint is DISMISSED for failure to state a claim upon which relief may be granted.

Pursuant to 28 U.S.C. § 1915(a), the Court CERTIFIES that for the foregoing reasons, an appeal of any Order adopting this Report and Recommendation would not be taken in good faith and therefore DENIES plaintiff leave to appeal *in forma pauperis*. Plaintiff remains free to apply to proceed *in forma pauperis* in the Court of Appeals. See *Callihan v. Schneider*, 178 F.3d 800, 803 (6<sup>th</sup> Cir. 1999), overruling in part *Floyd v. United States Postal Serv.*, 105 F.3d 274, 277 (6<sup>th</sup> Cir. 1997).

This case is DISMISSED AND TERMINATED on the docket of this Court.

IT IS SO ORDERED.

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s/Herman J. Weber  
Herman J. Weber, Senior Judge  
United States District Court